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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,496	03/11/2004	Michael Kwiecien	00216-618001	6314
27752	7590	10/15/2008	EXAMINER	
THE PROCTER & GAMBLE COMPANY			ALIE, GHASSEM	
Global Legal Department - IP			ART UNIT	PAPER NUMBER
Sycamore Building - 4th Floor				3724
299 East Sixth Street				
CINCINNATI, OH 45202				
MAIL DATE		DELIVERY MODE		
10/15/2008		PAPER		

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/798,496

Filing Date: March 11, 2004

Appellant(s): KWIECIEN, MICHAEL

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Dara M. Kendall  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 07/24/08 appealing from the Office action mailed 01/24/08.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

No amendment after final has been filed.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

5,956,848	TSENG et al.	09-1999
5,756,081	WDOWIK	05-1998

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

A. Claims 1, 3-7, 13-16, 18-22, 24-26, 28-29, and 31-32 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Tseng et al. (5,956,848), hereinafter Tseng, in view of Wdowik (5,756,081). Regarding claim 1, Tseng teaches a wet shaving system 10 including a skin engagement portion including a shaving aid composite 14. Tseng also teaches a shaving aid matrix 46 including a water-insoluble polymer and a shaving aid. See col. 3, lines 8-15. It should be noted that Tseng teaches that the portions 44, 46, and 48 of the shaving aid composite contains a water insoluble polymer. Tseng does not explicitly teach that the shaving aid matrix 46 includes a plurality of exfoliating elements having abrasive particles. However, Wdowik teaches a plurality of exfoliating elements which are used with a shaving aid composite which could be in a solid form. See col. 2, lines 55-61 and col. 3, lines 22-60 in Wdowik. Wdowik also teaches that the exfoliating elements have abrasive particles. See col. 3, lines 54-60 in Wdowik. It should be noted that the shaving aid composite in Tseng is solid, and Wdowik teaches that the exfoliating elements in a form of particles can be used in a solid shaving composite. It should be noted that the shaving aid matrix of the razors also is considered to be a solid shaving composition. Therefore, it would have been obvious to a person of ordinary skill in the art to provide Tseng's shaving aid matrix with a plurality of exfoliating elements, as taught by Wdowik, in order to enhance exfoliation of the dead skin and removal of grease and oils.

Regarding claims 3-4 and 13-14, Tseng teaches everything noted above including that the polymer comprises of a water-insoluble polymer which could be polyethylene. Tseng also teaches that the shaving aid could have a colorant. See col. 3, lines 16-37 in Tseng. Tseng also teaches that the shaving aid includes polyethylene oxide and vitamin E. See col. 3, lines 37-65 in Tseng.

Regarding claim 5, Tseng, as modified by Wdowik, teaches everything noted above including a first section that is considered to be shaving aid matrix 46 and a second section 44, 48 having a second polymer. Tseng also teaches that the first section or second section further includes a shaving aid.

Regarding claims 6-7, Tseng, as modified by Wdowik, teaches that the exfoliating elements include polymer and mineral oil. It should be noted that the abrasive particles in Wdowik could be polymeric particles. See col. 3, lines 55-60. It should be noted that the use of other abrasive elements or exfoliating elements are well known in the art such as taught by Ruben (6,461,599). See col. 2, lines 35-50 in Ruben.

Regarding claim 15, Tseng, as modified by Wdowik, teaches everything noted above, including that the exfoliating elements comprises a colorant. It should be noted when the polymer or the shaving aid includes a colorant the exfoliating elements which are embedded into the polymer also naturally include a colorant. In addition, Wexler et al. (6,295,733) teaches elements 21 that are embedded into a polymer include a colorant.

Regarding claims 16, 18-22, 24-26, 28-29, and 31-32, Tseng, as modified by Wdowik, teaches all the limitation set forth in those claims. It should be noted that Tseng teaches that one of the sections includes a water-insoluble polymer, both sections comprise of a shaving aid, the first section is on the top of the second section, the first section and second section also could be different color as being formed from a different material, at least one of the first section or the second section includes a colorant, and the shaving aid and the exfoliating element are disposed in a single layer.

**(10) Response to Argument**

I. Appellant's arguments that an artisan would not have had a reasonable expectation of success in adding an ingredient intended for use in a shaving composition to a solid shaving composite is not persuasive. Wdowik discloses, "The present invention is not limited to any single shaving composition, but rather to the concept of the inclusion of suitable particulate additives to any shaving composition, regardless of its form before or after it is applied, that is solid, gel, cream, liquid or aerosol." See col. 4, lines 56-60 in Wdowik. Wdowik teaches that the shaving composition could be in a solid form. Therefore, it would have been obvious to a person of ordinary skill in the art to provide the ingredients of a solid shaving composition, as taught by Wdowik, to another solid shaving composition, as taught by Tseng, since both shaving compositions used as a shaving aid for in a shaving process by a razor assembly.

In addition, it should be taken under consideration that the shaving composite portions 44, 46, and 48 in Tseng includes a shaving aid matrix that has different substances which may have to some degree roughness or abrasiveness that could be considered as "exfoliating elements." The independent claims do not even recite specific particles that could be considered as "exfoliating elements" or "abrasive particles." It should be noted that any substance within the shaving matrix or shaving aid has some degree of abrasiveness or roughness that contains elements with exfoliating characteristics. In other words, independent claims broadly recite "a plurality of exfoliating elements comprising abrasive particles." Any substance within the shaving matrix has some degree of roughness and includes abrasive particles. However, Examiner has considered the abrasive particles recited in the independent claims as the abrasive particle set forth in claim 7 and in the specification. Therefore, Tseng has been combined with

Wdowik in rejection of the claims including the independent claims. Nevertheless, independent claims, very broadly claim abrasive particles in the shaving matrix. As stated above, any shaving matrix has some degree of roughness and the elements within the shaving matrix could be considered as abrasive particles.

II. Appellant's argument that Wdowik provides no teaching or suggestion to a skilled artisan to incorporate a solid exfoliating composition into a single shaving unit is not persuasive. In response to appellant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Wdowik teaches that the shaving composition can be in form of a solid shaving composition and include abrasive particles. Therefore, Wdowik teaches a solid exfoliating composition as a shaving aid. Tseng also teaches a shaving aid in a form of a solid strip or soap. Tseng also teaches that the shaving aid could be placed into a single shaving unit. Therefore, it is within the knowledge of a person of ordinary skill in the art to provide Tseng's shaving composition with the elements in Wdowik's shaving composition, since both shaving compositions are solid and used to facilitate a wet shaving process. It is within the knowledge of a person of ordinary skill in the art to provide a solid soap with one of the substances used in a composition of another solid soap in order to add at least a special characteristic to the solid soap.

III. Appellant's argument that Wdowik or Tseng does not teach that abrasive particle containing compositions could be formulated to be stabilized within a solid from which is included into a shaving razor is not persuasive. As stated above, Tseng teaches that the shaving aid could be placed into a single shaving unit. Wdowik teaches that the shaving composition can be in the form of a solid shaving composition and include abrasive particles. Therefore, it is within the knowledge of a person of ordinary skill in the art to provide Tseng's shaving composition with the elements in Wdowik's shaving composition in order to enhance the shaving aid in Tseng and facilitated a wet shaving by the shaving razor, since both shaving aids in Tseng and Wdowik are well known shaving aids in the art that are used for a wet shaving process.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Ghassem Alie/

Primary Examiner, Art Unit 3724

09/06/08

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